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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,569	03/23/2004	David L. Marvit	073338.0181 (04-50454 FLA	4255
5073	7590	11/14/2006	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			LIANG, REGINA	
			ART UNIT	PAPER NUMBER
			2629	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/807,569	Applicant(s) MARVIT ET AL.	
	Examiner Regina Liang	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-16 and 19-27 is/are rejected.
- 7) ☒ Claim(s) 6-8, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/23/04, 11/21/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 20-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 20-26 although written to include a computer readable medium, however for a logic, i.e., computer program, to be statutory subject is must be claimed as a computer program stored on a computer readable medium as set forth in page 52 of the Interim Guidelines, thus without such the claims are non-statutory in nature.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 10, 12-16, 20-23, 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Bradski (US 2004/0027330).

As to claims 1, 27, Bradski discloses a motion controlled handheld device (mobile device 104 as shown in Fig. 1) comprising: a first accelerometer operable to detect acceleration along a first axis; a second accelerometer operable to detect acceleration along a second axis, the second

Art Unit: 2629

axis perpendicular to the first axis; a tile detection component operable to detect rotation having a component around at least one of the first axis and the second axis (see [0052]);

a display operable to present a current image (e.g., 106 in Fig. 1B; 108 in Fig. 1C); a motion tracking module operable to track motion of the device in three dimensions using the first accelerometer, the second accelerometer, and the tilt detection component ([0052]); and

a controller operable to generate the current image and to modify the current image in response to the motion of the device (it is inherent the device of Bradski has a controller so as to control the displayed images as shown in Figs. 1-7).

As to claim 2, Bradski teaches the display comprises a viewable surface; the first axis and the second axis are substantially parallel to the viewable surface (see X axis and Y axis movements in Figs. 1A-1E, and sections [0020]-[0023]).

As to claim 3, Fig. 5 of Bradski teaches using an accelerometer to detect acceleration in Z axis which is perpendicular to the X axis and Y axis. Bradski also teaches to distinguish translation within a plane formed by the first axis and the second axis from rotation having a component around at least one of the first axis and the second axis based upon the acceleration detected by the third accelerometer (in Fig. 1, moving the mobile device along X and Y axis along a plane, updating the displayed image; in Fig. 2, rotating the mobile device about X and Y axis using accelerometer, changing the displayed image in different orders; all motions in Figs. 1, 2 are distinguish between translation and rotation based upon the acceleration measured by the accelerometer).

As to claim 4, Figs. 6 and 7 of Bradski teaches the tilt detection component comprising a camera (602 in Fig. 6, 704 in Fig. 7) operable to generate a video stream, and a video analysis module operable to detect a direction of motion based on the video stream ([0062]-[0063]).

As to claim 5, Fig. 6 of Bradski teaches using a camera for providing images of the mobile device including the markings, the images is processed (video stream), by identify the makings to provide the relative and/or absolute location and orientation of the mobile device, then using the processed information (video stream), the mobile device is capable of displaying different views of the virtual space or object, which reads on a range finder (camera) to determine distance information including a distance between the device and an object of the video stream, and the video analysis module is operable to determine a magnitude of translation of the device using the distance as claimed.

As to claim 10, Bradski teaches the motion tracking module is operable to identify translation of the device with a plane formed by the first axis and the second axis based upon motion of the device (see Figs. 1B-1D), the current image displays subsection of a larger image (zoom-in in Fig. 5), and the controller is operable to continuously modify the current image to display another subsection of the larger image based on a resulting position of the device resulting from the translation (see Fig. 4).

Claims 12-16, 20-23, which are method claims corresponding to the above apparatus claims 1-5, are rejected for the same reasons as stated above since such method "steps" are clearly read on by the corresponding "means".

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9, 19, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradski in view of Bartlett (US 6,573,883).

Bradski teaches the device having gesture recognition function ([0037]). Bradski does not disclose the device comprising a gesture databases and a gesture mapping. However, Fig. 3 of Bartlett teaches a motion controlled handheld device comprising a gesture databases (a catalog of gesture commands) comprising a plurality of gestures, and a gesture mapping database for mapping each of the gestures to a corresponding commands. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Bradski to have the feature of a gesture database and database mapping as taught by Bartlett so as to “enable use of different gesture commands” such that “a great range of gesture commands is possible given the use of different axes and angular direction of rotation for a variety of different patterns of movement” (col. 2, lines 39-40 of Bartlett).

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bradski in view of Ordard (US 6,834,249).

Bradski does not disclose the motion tracking module is operable to disregard acceleration detected by the accelerometers that register below a noise threshold. However,

Art Unit: 2629

Orchard teaches a handheld device having motion detection sensors for sensing the motion of the device, in response to the sensor reaches a motion threshold, the motion control agent generates instructions or operations to update the current state of the device (i.e., see col. 4, lines 34-39, col. 7, lines 16-28, 46-65; it is inherent that if the sensor does not reach the motion threshold or is below the threshold, the motion control agent is to disregard acceleration detected by the sensors). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Bradski to have the features as taught by Orchard so as to provide a simple way to control the display of content generated within an application and to eliminate the switches.

Allowable Subject Matter

8. Claims 6-8, 17, 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

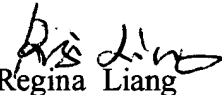
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Liang whose telephone number is (571) 272-7693. The examiner can normally be reached on Monday-Friday from 8AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 2629

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Regina Liang
Primary Examiner
Art Unit 2674

10/27/06